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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

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THE PEOPLE,

Plaintiff and Respondent,

v.

ERNEST MANUEL LECHUGA,

Defendant and Appellant.

C086304

(Super. Ct. No. 17F1465)

Appointed counsel for defendant Ernest Manuel Lechuga filed an opening brief that sets forth the facts of the case and asks this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). Finding no arguable error that would result in a disposition more favorable to defendant, we will affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

## FACTUAL AND PROCEDURAL BACKGROUND

Defendant was charged with multiple crimes related to the abuse of his girlfriend, an elder and dependent adult, and stabbing a man who attempted to intervene. After defendant hit his 77-year-old girlfriend, she sought help from an employee at the motel where they shared a room. The employee went to their room and asked defendant to leave, but he refused. After defendant began yelling at the employee, a maintenance worker, Chris A., approached and told defendant he needed to leave. Defendant then charged Chris A., jumped on him, and started punching him. A third employee intervened and pulled defendant off Chris A., and defendant ran out of the room. He returned about two minutes later, pulled a knife from his jacket, jumped on top of Chris A., and began stabbing him in his ribcage and head. A motel security camera captured most of this incident on video. Defendant had hit his girlfriend several times in the months preceding this incident, and Chris A. had confronted him about it once before.

Following a jury trial, the jury found defendant guilty of attempted voluntary manslaughter (Pen. Code,<sup>1</sup> § 664/192), assault with a deadly weapon (§ 245, subd. (a)(1)), misdemeanor battery (§ 243, subd. (e)), misdemeanor elder abuse (§ 368, subd. (c)), corporal injury with a prior conviction<sup>2</sup> (§ 273.5, subds. (a), (f)), and felony elder abuse (§ 368, subd. (b)(1)). The jury also found true a special allegation that defendant used a deadly weapon in the commission of the attempted voluntary manslaughter in violation of section 12022, subdivision (b). Defendant admitted the enhancements for a prior serious or violent felony under section 1170.12 and section 667, subdivision (a)(1).

The trial court sentenced defendant to state prison for an aggregate term of 19 years, as follows: the upper-term of five years six months for attempted voluntary

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

<sup>2</sup> The parties stipulated that defendant had suffered a prior felony conviction.

manslaughter, doubled to 11 years under section 1170.12, an additional five years for the prior conviction under section 667, subdivision (a)(1), and an additional one year for the special allegation under section 12022, subdivision (b); the upper term of four years for assault with a deadly weapon, doubled to eight years under section 1170.12 but stayed under section 654; one year in jail for battery, stayed under section 654; 180 days in jail for misdemeanor elder abuse, stayed under section 654; a consecutive term of one year, one-third the midterm, for corporal injury with a prior conviction, doubled to two years under section 1170.12; and three years, the midterm, for felony elder abuse, doubled under section 1170.12 but stayed under section 654. The court further ordered that defendant pay the California Victim Compensation and Government Claims Board \$1,950. The court awarded defendant 565 days of custody credit (283 actual days and 282 conduct days). The court imposed a \$10,000 restitution fine (§ 1202.4, subd. (b)) and a corresponding \$10,000 parole revocation fine, suspended unless parole is revoked (§ 1202.45); a \$40 court operations assessment (§ 1465.8); and a \$30 criminal conviction assessment (Gov. Code, § 70373).

## DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief setting forth the facts and procedural history of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of his right to file a supplemental brief within 30 days from the date the opening brief was filed. More than 30 days have elapsed, and we have received no communication from defendant.

Our review of the record reveals that there is a clerical error in the abstract of judgment: the total credits are listed as 283, the actual credits are listed as 282, and the conduct credits are listed as 565. The court awarded defendant 565 days of total custody credit, including 283 actual days and 282 conduct days. This clerical error must be corrected.

We have undertaken an examination of the entire record pursuant to *Wende*, and we find no other arguable error that would result in a disposition more favorable to defendant. Accordingly, we affirm the judgment.

## DISPOSITION

The judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect that defendant has 565 days in total prejudgment custody credits, including 283 actual days and 282 conduct days. A certified copy of the corrected abstract of judgment shall be forwarded to the Department of Corrections and Rehabilitation.

/s/  
BLEASE, Acting P. J.

We concur:

/s/  
MURRAY, J.

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DUARTE, J.